

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

ISIDRO ORTIZ,

Defendant.

Case No. 3:13-cr-00111-MMD-WGC

ORDER

The Court previously appointed counsel to represent Defendant in connection with his motion seeking discretionary relief pursuant to 18 U.S. C. § 3582(c)(2) and Amendment 782. (Dkt. nos. 40, 41.) In response, the government moved to dismiss Defendant's motion and vacate the Court's order. (Dkt. no. 43.)


Pursuant to Amendment 782, the Court has discretion to reduce the guideline offense levels across all drug types by two levels. Amendment 782 took effect on November 1, 2014. However, with certain limitations, the reduction may be applied retroactively to defendants sentenced before November 1, 2014.

The government correctly points out that Defendant has waived any right to seek a two-level reduction under Amendment 782. The plea agreement that Defendant signed specifically provides that Defendant "agrees not to move for a 2-level variance on the grounds of an anticipated 2-level reduction to the base offense levels for varying amounts of controlled substances in section 2D1.1(c) of the Sentencing Guideline by amendment." (Dkt. no. 30 at 8.) In exchange, the government agreed to jointly recommend a sentence of 120 months. In connection with sentencing, the Probation

1 Office calculated the applicable advisory guidelines sentencing range of 262-327
2 months. The Court accepted the parties' recommended sentence and imposed a
3 sentence of 120 months. (Dkt. no. 39.) Defendant is now foreclosed by the plea
4 agreement from seeking a reduction of his sentence under Amendment 782.

5 It is therefore ordered that Defendant's motion for sentencing reduction (dkt. no.
6 40) is denied. It is further ordered that the government's motion to dismiss (dkt. no. 43)
7 is granted. The Court's order appointing counsel for Defendant (dkt. no. 41) is vacated.

8 DATED THIS 30th day of January 2015.

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12 MIRANDA M. DU
13 UNITED STATES DISTRICT JUDGE
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